

STATEMENT

OF

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BEFORE THE

**SENATE JUDICIARY COMMITTEE
SUBCOMMITTEE ON IMMIGRATION**

REGARDING

EFFECTIVE IMMIGRATION CONTROLS TO DETER TERRORISM

OCTOBER 17, 2001

SD-226 DIRKSEN SENATE OFFICE BUILDING

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE,

I want to thank you for the opportunity to testify on the topic of “Effective Immigration Controls to Deter Terrorism.” I am always pleased to return to the Senate. I shall always be grateful for the opportunity I had to serve as the Senate Sergeant at Arms from November 1998 to August 2001.

Although I have served as Commissioner for only two months, I have not viewed that as a liability in responding to the tragic events of September 11, primarily because of the highly professional career public servants who have provided me with mature advice and assistance. These tragic events, however, have provided an opportunity for me to examine, with a fresh eye, the management, personnel, technology, and policies of the INS.

Steps to Improve Security

Even before September 11, we were examining how we can improve the INS, at all levels, and especially in the area of technology. We recognize that technology is a huge “force multiplier” that we must employ effectively at the INS if we are to accomplish our mission.

Pursuant to the mandates of the Clinger-Cohen legislation, in response to the recommendations of the General Accounting Office (GAO), and because it makes good business sense, the INS is currently in the process of developing its Enterprise Architecture. This project represents our long-term, strategically-oriented approach to accomplishing the information driven aspects of the INS mission. We began the planning for this project in October 2000 and I expect the final delivery of this project, the transition plan to our target architecture, to be ready at the beginning of the 3rd quarter of FY 2002.

In addition, as part of our overall restructuring initiative, I encouraged our employees at all levels to think “outside the box” as to how we can better accomplish our mission. They responded with a number of creative ideas, some of which we are still evaluating. However, within the context of what is already known to be “doable” and effective, we are considering a series of measures that would strengthen our enforcement capabilities. We are working within the Administration to determine how to implement these measures. Some of our ideas are as follows:

BORDER PATROL

- As requested in the President's budget, increase the number of Border Patrol agents and support staff along the northern border, while not neglecting the continuing needs along the southwest border. Such increases should also include necessary facilities, infrastructure and vehicles.
- Provide additional agent support equipment and technology enhancements. Unfortunately, neither the Senate nor the House currently is funding the President's request at \$20 million for "force multiplying technology."
- Expand access to biometric identification systems, such as IDENT.

INSPECTIONS

- In the Inspections area, as we proposed in our FY 2002 budget, we believe we should increase the number of Inspectors at our Ports of Entry.
- Require inspection of all International-to-International Transit Passengers (ITI) so that all travelers who arrive in the United States are inspected.

INFORMATION AND TECHNOLOGY INITIATIVES

- Require carriers to submit Advance Passenger Information before boarding passengers (whether the passenger is heading to the United States or attempting to depart the United States) to assist in preventing known or suspected terrorists, criminals, and inadmissible passengers from boarding.
- Make Advance Passenger Information data widely available to law enforcement agencies, enhancing the ability to identify potential threats prior to departure from or arrival in the United States, as well as to

prevent the departure of individuals who may have committed crimes while in the United States.

- Implement the National Crime Information Center Interstate Identification Index (NCIC III) at all ports of entry so that aliens with criminal histories can be identified prior to or upon arrival in the United States. NCIC III should also be available at all consular posts, INS service centers and adjudication offices to help identify aliens who pose a potential threat.
- Improve lookout system checks for the adjudications of applications at INS service centers.
- Improve INS infrastructure and integration of all data systems so that data from all sources on aliens is accessible to inspectors, special agents, adjudicators, and other appropriate law enforcement agencies. This initiative is ongoing.

PERSONNEL ISSUES

- Waive the calendar-year overtime cap for INS employees to increase the number of staff-hours available by increasing the overtime hours people can work. This proposal is included in the Administration's Anti-Terrorism Bill.

OTHER INITIATIVES

- Re-examine and potentially eliminate the Transit Without Visa Program (TWOV) and Progressive Clearance to prevent inadmissible international passengers from entering the United States.
- Reassess the designation of specific countries in the Visa Waiver Program to ensure that proper passport policies are in place. This initiative will require the concurrence of and joint participation by the Department of State.

- Explore alternative inspection systems that allow for facilitation of low risk travelers while focusing on high-risk travelers.
- And review the present listing of designated ports of entry, in concert with the U.S. Customs Service, to eliminate unnecessary ports. This will allow the INS to deploy more inspectors to fewer locations making for a more efficient use of resources.

Database Improvements

In addition to the measures cited above, I have instructed my staff to move forward expeditiously on two database improvement projects mandated by Congress. While neither is a panacea, both would be an improvement over the status quo. First, there has been much attention paid to student visas in recent weeks. Today, the INS maintains limited records on foreign students and is able to access that information on demand. However, the information is on old technology platforms that are insufficient for today's need for rapid access. That is why we are moving forward with the Student Exchange Visitor Information System (SEVIS), formerly known as CIPRIS. Objections, primarily by the academic establishment, have delayed its development and deployment. However, with the events of September 11, that objection has virtually disappeared. INS, with your help, will meet the Congress' date of January 2003 to start implementation of SEVIS with respect to all foreign nationals holding student visas. I hasten to add that there is a critical need to concurrently review and revise the process by which foreign students gain admission to the United States through the I-20 certification process as we build the system.

Second, substantial attention also has been paid to entry and exit data. Currently, the INS collects data on the entry and exit of certain visitors. The data, most of which is provided to the INS in paper form to meet our manifest requirements, first must be transferred by hand from paper to an electronic database. This is an extremely inefficient way of processing data which delays access to the data by weeks and months. Knowing who has entered and who has departed our country in real time is an important element in enforcing our laws. The Data Management Improvement Act, passed in 2000, requires the INS to develop a fully-automated integrated entry-exit data collection system and deploy this system at airports and seaports by the end of 2003, the 50

largest land ports of entry by the end of 2004, and completing the deployment to all other ports of entry by the end of 2005. The legislation also requires a private sector role to ensure that any systems developed to collect data do not harm tourism or trade.

The INS already uses limited airline and cruise line data that is now provided voluntarily as an integral part of the inspection process at airports and seaports. We will work closely with Congress, other agencies, and the travel industry in the coming months to expand our access to needed data and to enhance our use of that data to ensure border security and more complete tracking of arrivals and departures.

There has also been a great deal of focus on the databases used to identify persons who are inadmissible to the United States or who pose a threat to our country. The INS, the Customs Service, and the Department of State's Bureau of Consular Affairs have worked diligently over the past decade to provide our ports of entry and consular posts with access to data needed by our officers. The data contained in the National Automated Immigration Lookout System (NAILS), the Treasury Enforcement Communications System (TECS II), and the Consular Lookout and Support System (CLASS) are uniformly available to our ports of entry through a shared database called the Interagency Border Inspection System (IBIS) that is maintained on the U.S. Customs Service mainframe computer. Last week, I announced that INS and the Department of State have agreed to aggressively deploy the Consolidated Consular Database to INS ports-of-entry within the next three months. This will provide inspectors with the capability to verify rapidly and definitively the identity of visa-holders seeking admission to the United States. This new functionality will be provided to inspectors at ports-of-entry through the IBIS system.

Through IBIS, the officers at our ports of entry can also access limited data from the National Crime Information Center (NCIC). Immigration and Customs officers have long had the capability to check NCIC wanted persons data on a limited basis. Only recently have immigration inspectors been authorized to routinely use NCIC criminal history data (NCIC III) to identify criminal aliens in advance of their arrival. This capacity now exists at two ports of entry. Before September 11, the INS was working to expand the availability of this valuable data source to additional locations. Legislation is

being considered to ensure this expansion is successful. I strongly support this legislation.

Many people who cross our land borders do so with a Border Crossing Card (BCC). The INS and State Department have been working aggressively over the past several years to replace the old Border Crossing Cards with the new biometric "laser visa." Based on the statutory deadline, holders of the old BCC can no longer enter the country. The new BCC has many security features that make it a much more secure entry document.

Both at and between our ports of entry, the INS has used a fingerprint identification system known as IDENT to track immigration violators. This system has provided the INS with a significant capacity to identify recidivists and impostors. Congress has directed the Department of Justice to integrate IDENT with access to the FBI's automated fingerprint system, IAFIS, and we have been proceeding toward that objective with the FBI and under the Department's direction.

The Limits of Technology

There is no quick fix, technological or otherwise, to the problems we face. We must work with advanced technology and do all we can to improve our systems. But we should not mislead ourselves into thinking that technology alone can solve our problems. Technology must be coupled with a strong intelligence and information-gathering and distribution system if we are to leverage our resources and maximize our capabilities. That will require the seamless cooperation among the many government agencies involved.

It should be noted that more than five hundred million inspections are conducted at our ports of entry every year, and hundreds of millions of people enter the United States without visas, either because they are U.S. citizens, through visa waiver programs, or other exemptions from the normal visa process; the INS has only 4,775 Inspectors to process these hundreds of millions of visitors and approximately 2,000 investigators and intelligence agents throughout the country who are available to deal with persons who have entered illegally, are criminal aliens, or have overstayed their visas or otherwise have violated the terms of their status as visitors in the United States.

If we are to meet the challenges of the future, we need to make changes at the INS and we are in the process of making those changes. The structure of the organization and the management systems that we have in place are outdated and, in many respects, inadequate for the challenges we face. Our information technology systems and related processes must be improved in order to ensure timely and accurate determinations with respect to those who wish to enter our country and those who wish to apply for benefits under our immigrations laws. The management restructuring of the INS is on its way – a mandate the President and the Congress have given me -- and the improvement of our information technology systems is moving ahead and can be accomplished with the help and support of Congress.

Mr. Chairman, I would like to say one word about INS employees and the events of September 11. Within hours of the attacks, the INS was working closely with the FBI to help determine who perpetrated these crimes and to bring those people to justice. Within 24 hours, under “Operation Safe Passage,” The INS deployed several hundred Border Patrol agents to eight major U.S. airports to increase security, prevent further terrorist incidents and restore a sense of trust to the traveling public. At America’s ports of entry, INS inspectors continue to work tirelessly to inspect arriving visitors, while ensuring the flow of legitimate commerce and tourism. Meanwhile, despite the tragedies and the disruptions, our service operations have managed to complete over 35,000 naturalizations nationwide and process thousands of other applications since September 11. America should be proud of the extraordinary effort of these men and women.

Looking Ahead

It has been said that after September 11 “everything has changed.” I hope that is not true. America must remain America, a symbol of freedom and a beacon of hope to those who seek a better life for themselves and their children. We must increase our security and improve our systems but in doing so we must not forget what has made this nation great – our openness to new ideas and new people, and a commitment to individual freedom, shared values, innovation and the free market. If, in response to the events of September 11, we engage in excess and shut out what has made America great, then we will have given the terrorists a far greater victory than they could have hoped to achieve.

Thank you for this opportunity to appear, Mr. Chairman. I look forward to your questions.